

COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



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ARIZONA CORPORATION COMMISSION

2009 AUG -7 A 10: 06

DATE: AUGUST 7, 2009
DOCKET NO: T-20456A-08-0452

AZ CORP COMMISSION
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

SUNESYS, LLC
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 17, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 25, 2009 and AUGUST 26, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
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AUG -7 2009



ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION
9 OF SUNESYS, LLC, FOR THE CANCELLATION
10 OF ITS CERTIFICATE OF CONVENIENCE AND
11 NECESSITY FOR TELECOMMUNICATIONS
12 SERVICES.

DOCKET NO. T-20456A-08-0452

DECISION NO. _____

ORDER

13 Open Meeting
14 August 25 and 26, 2009
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 Having considered the entire record herein and being fully advised in the premises, the
18 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

19 **FINDINGS OF FACT**

20 1. Sunesys, LLC ("Sunesys" or "Company") has a Certificate of Convenience and
21 Necessity ("Certificate") to provide facilities-based interexchange, facilities-based local exchange,
22 and private line telecommunications services within Arizona pursuant to Decision No. 70292 (April
23 24, 2008).

24 2. On August 29, 2008, the Company filed with the Commission an application for
25 cancellation of its Certificate ("Application"). Sunesys stated that it does not provide, and has never
26 provided service in Arizona and currently has no customers in Arizona.

27 3. On July 8, 2009, Staff filed its Staff Report recommending approval of Sunesys'
28 Application.

4. The Company requests a waiver from compliance with the terms of Arizona
Administrative Code ("A.A.C."), R-14-2-1107 requiring the Company to provide notice to customers
of its discontinuation of service, a plan for the refund of deposits, a list of alternate providers, and to
publish notice of the application. Sunesys requested a waiver of these provisions because it never

1 provided service to any customers in Arizona, does not intend to provide service in Arizona in the
2 future and has not collected any advances, prepayments and/or deposits.

3 5. Staff concurs with Sunesys' reasoning and recommends that Company compliance
4 with the provisions of A.A.C. R-14-2-1107 should be waived.

5 6. As discussed in Decision No. 67404 (November 2, 2004), it would render
6 A.A.C. R14-2-1107 meaningless and would run afoul of the rule's intent and plain language to
7 exempt a Company from the requirements of the rule because it has no customers due to its
8 discontinuation of service. However, as discussed in that Decision, the intent of the rule is to ensure
9 that existing customers have advance notice of a telecommunications provider's pending plan to
10 discontinue service such that they will be afforded an opportunity to procure service through an
11 alternative provider prior to such discontinuance.

12 7. The Company has never had any Arizona customers and did not collect any advances,
13 prepayments and/or deposits. Under these circumstances, the requirements of A.A.C. R-14-2-1107
14 should be waived.

15 8. The Commission's Consumer Services Section of the Commission's Utilities Division
16 reported that there were no customer complaints, inquiries or opinions against the Company from
17 January 1, 2005 through June 8, 2009.

18 9. The Commission's Corporations Division reported that Sunesys is in good standing.

19 10. Staff recommends approval of Sunesys' Application and cancellation of the
20 Company's Certificate.

21 11. Staff's recommendation is reasonable and should be adopted.

22 CONCLUSIONS OF LAW

23 1. The Company is a public service corporation within the meaning of Article XV of the
24 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

25 2. The Commission has jurisdiction over the Company and the subject matter of the
26 Application.

27 3. The cancellation of the Company's Certificate is in the public interest.

4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding
Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

5. The requirements of A.A.C. R14-2-1107 should be waived in this case.

6. Staff's recommendation is reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the Application of Sunesys, LLC, for the cancellation of
its Certificate of Convenience and Necessity to provide facilities-based interexchange, facilities-
based local exchange, and private line telecommunications services in Arizona is hereby approved,
and its Certificate of Convenience and Necessity is hereby cancelled.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON
Executive Director of the Arizona Corporation Commission,
have hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this _____ day of _____, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR:

SUNESYS, LLC

2 DOCKET NO.:

T-20456A-08-0452

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